

February 7, 2012

Mark C. Ellison
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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, D.C. 20554

Re: Ex Parte Submission - City and County of San Francisco, City of Oakland and the City of San Jose, Request for Waiver of the Commission's Rules to Deploy a 700 MHz Interoperable Public Safety Broadband Network (PS Docket No. 06-229, Public Notice, DA 12-32)

Dear Ms. Dortch:

Submitted here for the record, please find the letter of the BayRICS Joint Powers Authority ("BayRICS") dated February 7, 2012, in response to comments filed in this proceeding on January 30, 2012, by the Harris Corporation.

The comments of the Harris Corporation pertain to the waiver sought by the City and County of San Francisco, City of Oakland, and City of San Jose (the "Cities"). The Cities requested BayRICS to provide the enclosed letter, responding to such comments.

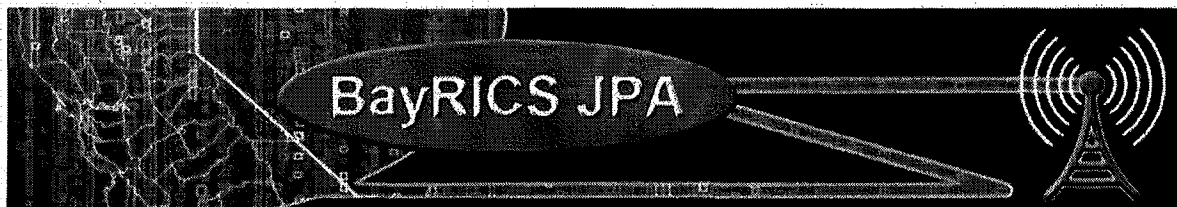
Thank you for your attention and consideration.

Sincerely,



Mark C. Ellison
Counsel to the City and County of San Francisco, City of Oakland, and City of San Jose

cc: Jennifer Manner, Public Safety and Homeland Security Bureau, FCC



February 7, 2012

Mark C. Ellison
Patton Boggs LLP
2550 M Street, N.W.
Washington, DC 20037

Re: City and County of San Francisco, City of Oakland and the City of San Jose, Request for Waiver of the Commission's Rules to Deploy a 700 MHz Interoperable Public Safety Broadband Network (PS Docket No. 06-229, Public Notice, DA 12-32)

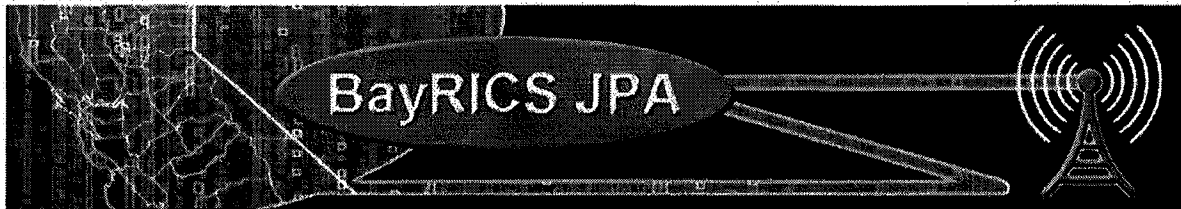
Dear Mr. Ellison:

The Bay Area Regional Interoperable Communications System Authority ("BayRICS") submits this letter to address the comments of Harris Corporation ("Harris") in the above-referenced proceeding. In that petition, the City and County of San Francisco, City of Oakland and City of San Jose ("Cities") seek a waiver of the Commission's rules to enter into a new lease with the Public Safety Spectrum Trust for the 700MHz public safety broadband spectrum. If the waiver is granted, the Cities intend to seek the Commission's approval to assign the lease to BayRICS.¹ The Cities are members of BayRICS and support this letter.

In its comments, Harris asks the Commission to grant the waiver only upon the meeting of certain conditions, which would apply only to the on the Bay Area Waiver recipients. Harris seeks assurance that the BayWEB network: 1) will interoperate with networks and devices of at least three of other vendors; 2) will not create market control by one vendor in adjacent regions; 3) will not lead to decreased competition in the public safety LTE market in adjacent regions or nationwide.

However, the Commission already has established a comprehensive regulatory process designed to ensure operability and interoperability of the networks developed by the waiver recipients. Specifically, the Commission requires all waiver recipients to submit an interoperability showing, which the Commission must approve prior to network activation. BayRICS understands that full compliance with the Commission's interoperability requirements is a prerequisite to the operation of the BayWEB network. In the petition, both BayRICS and the Cities have expressed a commitment to fully comply with the Commission's interoperability rules prior to system activation. We believe that the proper forum for review of the technical and operational specifications of the BayWEB network (as incorporated into the BOOM agreement) is the Commission's interoperability showing process.

¹ Waiver application ("Waiver") of December 23, 2011, 8.



Mr. Mark C. Ellison

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In addition, it would be patently unfair to impose jurisdiction- or vendor-specific rules such as these only on the BayWEB project. Harris' proposed rules would impose requirements on market behavior that, to a great extent, is entirely outside of the control of the Bay Area waiver recipients and the BayRICS Authority.

BayRICS is committed to open markets and we believe that competition for end user devices is essential for driving device costs to affordable price points for our members. However, BayRICS cannot ensure a competitive market or guarantee that a set number of vendors choose to enter this market. We commit to Harris and any other vendor that, if certified for use on these networks, their devices will operate at full functionality on BayWEB. However, we cannot be expected to ensure that a competitive market develops, or to control the actions of equipment and device vendors.

Moreover, the Commission already has addressed concerns similar to those expressed by Harris:

[T]he Bureau clarifies that it does not require, endorse, or favor any specific form of local procurement and in particular does not endorse or require the State of Texas or any jurisdictions that deploy networks under its waiver to use a sole-source method for obtaining services or equipment for their networks.²

For the reasons set forth above, the Harris comments are without merit and Commission should expeditiously grant the Cities petition. Please do not hesitate to contact me if you have any questions in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Fraser", is written over a horizontal line.

Barry Fraser
Interim General Manager
BayRICS Authority

² Order, DA 11-1441, released August 22, 2011, ¶ 5.